

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

In re

DULCES ARBOR, S. DE R.L. DE C.V.,

Debtor.

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Case No. 11-31199-LMC-11

APPLICATION TO APPROVE EMPLOYMENT OF ATTORNEY

TO THE HONORABLE LEIF M. CLARK, UNITED STATES BANKRUPTCY JUDGE:

Now comes DULCES ARBOR, S. DE R.L. DE C.V., Debtor-in-Possession in the above referenced proceeding ("Debtor"), and makes this Application to Approve Employment of Attorney, and in support thereof would respectfully show as follows:

1. On June 22, 2011, Debtor filed for relief under Chapter 11 of Title 11 of the United States Bankruptcy Code.

2. After the date of filing, Debtor will continue in possession of its property, and, as Debtor-in-Possession, will generate its business and manage its property.

3. DULCES ARBOR, S. DE R.L. DE C.V., as Debtor-in-Possession wishes to employ the law firm of E.P. BUD KIRK, of Terrace Gardens, 600 Sunland Park Drive, Bldg. Four, Suite 400, El Paso, Texas 79912, Telephone (915) 584-3773, an attorney duly admitted to practice in this Court, to assist the Debtor in these proceedings. The employment of this attorney is necessary because of the varied and complicated problems which exist with regard to this bankruptcy estate.

4. Debtor has selected this attorney for the reason that he has considerable experience in matters of this character, and he believes that he is well qualified to represent it as Debtor-in-Possession in these proceedings.

5. The professional services to be performed by this attorney are described in the boxes checked below:

- X To give the Debtor legal advice with respect to its powers and duties as Debtor-in-Possession and the continued operation of its business and management of its properties.
- X To review the various contracts heretofore entered by the Debtor and to determine which contracts should be rejected and assumed.
- X To represent the Debtor in collection of its accounts receivable.
- X To prepare on behalf of the Debtor necessary Schedules, Statements, Applications, and Answers, Orders, Reports, and other legal documents required for reorganization.
- X To assist the Debtor in formulation and negotiation of a Plan with its creditors in these proceedings.
- X To review all presently pending litigation in which the Debtor is a participant, to recommend settlement of such litigation which the attorney deems to be in the best interest of the estate, and to make an appearance as lead trial counsel in all litigation which the attorney believes should be continued.
- X To review the transactions of the Debtor prior to the filing of the Chapter 11 proceedings to determine what further litigation, if any, pursuant to the Bankruptcy Code, or otherwise, should be filed on behalf of the estate.
- X To examine all tax claims filed against the Debtor, to contest any excessive amounts claimed therein, and to structure a payment of the allowed taxes which conforms to the Bankruptcy Code and Rules.
- X To perform all other legal services of the Debtor, as Debtor-in-Possession, which may be necessary herein.

It is necessary for the Debtor, as Debtor-in-Possession, to employ an attorney for such professional services.

6. The pending Chapter 11 proceeding and surrounding litigation are complex. In view of the substantial work required and the probability that these proceedings may require legal services over an extended period of time, E.P. BUD KIRK and the Debtor have agreed, and the applicable Rules require, that E.P. BUD KIRK be paid through fee application on an interim quarterly basis, subject to the approval of this Court. The basis of compensation is authorized pursuant to §§ 327 and 331 of the Bankruptcy Code. The Debtor and such attorney have agreed that the firm be compensated at its normal hourly rates. The following hourly rates, subject to Court approval, will apply to the representation of the Debtor in the matters described herein:

| | |
|---------------------------------|-------------------|
| Attorney (E.P. BUD KIRK) | \$250.00 per hour |
| Paralegal (KATHRYN A. McMILLAN) | \$ 90.00 per hour |
| Paralegal (JANELLE GONZALES) | \$ 90.00 per hour |
| Paralegal (MAURA CASAS) | \$ 90.00 per hour |

E.P. BUD KIRK has twenty-eight years of active bankruptcy practice and is Certified in Business and Consumer Bankruptcy by the Texas Board of Legal Specialization. KATHRYN A. McMILLAN is a graduate of University of Texas at El Paso's Paralegal Certificate Program and has eighteen years experience as a paralegal working in bankruptcy. JANELLE GONZALES is a graduate of University of Texas at El Paso's Paralegal Certificate Program and has 8 years experience as a paralegal working in bankruptcy. MAURA CASAS is a graduate of University of Texas at El Paso's Paralegal Certificate Program and has 4 years experience as a paralegal working in bankruptcy.

E.P. BUD KIRK will file applications for allowance of payment of fees and expenses on an interim basis, and such interim and final allowances will be based upon the factors announced in *In re First Colonial Corporation of America*, 544 F.2d 1291 (5th Cir. 1977) *cert. denied*, 431 U.S. 904. As soon as each interim application is approved by Order of the Court, it is the intention of E.P. BUD KIRK and the Debtor that the approved fees invoices be paid immediately.

7. As evidenced by the Affidavit attached hereto, this attorney represents no interest adverse to the Debtor or to the estate in matters in which he is to be engaged by the Debtor, and his employment would be in the best interests of the bankruptcy estate.

8. A retainer of \$10,000.00 was paid to E.P. BUD KIRK upon the filing of these proceedings. Prior to filing, \$4,641.00 was paid to E.P. BUD KIRK by the Debtor, for pre-bankruptcy services actually rendered.

WHEREFORE, the undersigned attorney asks that this Application to Employ Attorney be granted, to be treated as contemporaneous with petition date, June 22, 2011, under Local Rule 2014.

Respectfully submitted this 23rd day of June, 2011.

/s/

E.P. BUD KIRK
State Bar No. 11508650
Terrace Gardens
600 Sunland Park Drive
Bldg. Four, Suite 400
El Paso, TX 79912
(915) 584-3773
(915) 581-3452 facsimile
Attorney for Debtor

ACCEPTED AND AGREED TO:

DULCES ARBOR, S. DE. R.L. DE C.V

By: /s/_____
RAYMOND DUCORSKY
Its: Sole Administrator

CERTIFICATE OF SERVICE

I do hereby certify that on the 23rd day of June, 2011, I did cause a copy of the foregoing Application to Approve Employment of Attorney to be mailed to U.S. Trustee, P.O. Box 1539, San Antonio, TX 78205-1539; to Dulces Arbor, S. DE R.L. DE C.V., 114 Calle Corrales, El Paso, TX 79912; and to the twenty largest unsecured creditors as shown on the attached list.

/s/

E.P. BUD KIRK

3970-JG-062311

Accounts Receivables UPS
55 Glenlake Parkway
Atlanta, GA 30328

Alejandro Franco
1313 John Ring Ln.
El Paso, TX 79936

Alex Bonnet
El Paso Language Services
3700 Hueco Valley Dr., #4103
El Paso, TX 79938

Bernard R. Given
Frandzel Robins Bloom & Csato, L.C.
6500 Wilshire Blvd., 17th Floor
Los Angeles, CA 90048

Blueberry Sales, LLP
2711 Centerville Rd., Ste. 400
Wilmington, DE 19808

Brad Ducorsky
5706 Mira Sierra Lane
El Paso, TX 79912

Citibank, N.A.
100 Citibank Dr.
San Antonio, TX 78425

Erica Matthews
BBVA Compass Bank
AL BI SC RCH
P.O. Box 10566
Birmingham, AL 35296

Grupo Nacional Provincial
Ransom Becker Insurance Agency
6428 Calle Vista City
El Paso, TX 79912

JP Morgan Chase
NAtional Subpoena Processing
Mail Code IN1-4054
7610 West Washington St.
Indianapolis, 46231

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Vargas and Canales, S.C.
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El Paso, TX 79901

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AFFIDAVIT OF ATTORNEY

THE STATE OF TEXAS

COUNTY OF EL PASO

BEFORE ME, the undersigned authority, on this day personally appeared E.P. BUD KIRK, who is known to me and who, after being by me duly sworn, stated upon his oath as follows:

"My name is E.P. Bud Kirk. I am a lawyer duly licensed to practice in the United States Bankruptcy Court for the Western District of Texas. I maintain an office for the practice of law at 600 Sunland Park Dr., Building Four, Suite 400, El Paso, Texas 79912. I signed the foregoing application on behalf of my law firm, a sole proprietorship. In accordance with Section 329 of the Bankruptcy Code and Bankruptcy Rule 2014, I have not in any guise shared or agreed to share the attorney's fees awarded to my firm in these proceedings with any other person, firm, or corporation, except that such fees will be shared by my employees in accordance with their customary salary arrangements. Further, I have no connections with the debtor, creditors, or any other party in interest, that would present a conflict in this case, either within the meaning of the Bankruptcy Rules or the ethical standards of the State Bar of Texas. And I have no connections other than general professional acquaintance with the respective attorneys and accountants for other parties-in-interest, the United States Trustee, or any person employed in the office of the United States Trustee in these proceedings."

FURTHER AFFIANT SAITH NOT.

/s/ 
E.P. BUD KIRK

SWORN TO and SUBSCRIBED BEFORE ME, the undersigned authority, on this 23rd day of June, 2011, TO CERTIFY WHICH WITNESS MY HAND AND SEAL OF OFFICE.




NOTARY PUBLIC State of Texas